

**AMENDMENTS**

This listing of claims will replace all prior versions, and listings, of claims in the application:

**In the claims**

1. (Previously presented) A communication device comprising:

a transfer rate estimator which estimates transfer rate of media data other than digital audio data before transmission in accordance with a communication rate of a communication network;

a data amount controller which controls the amount of the digital audio data to be transmitted in accordance with the transfer rate estimated by said transfer rate estimator; and

a transmitter which transmits the audio data whose data amount is controlled by said data amount controller, the media data other than the audio data, and data amount information indicating data amount of the audio data controlled by said data amount controller.

- B | 2. (Original) The communication device according to claim 1, further comprising

an input device which input the audio data and the media data other than the audio data to said communication device.

3. ~~(canceled)~~

4. (Original) The communication device according to claim 1, wherein said data

amount controller thins out the audio data to control its data amount.

5. (Original) The communication device according to claim 1, wherein the media data other than the audio data includes MIDI data.

6-9. ~~(canceled)~~

10. (Previously presented) A communication method comprising the steps of:  
(a) estimating transfer rate of media data other than digital audio data before transmission in accordance with a communication rate of a communication network;  
(b) controlling data amount of the digital audio data to be transmitted in accordance with the estimated transfer rate; and  
(c) transmitting the audio data whose data amount is controlled by said step (b), the media data other than the audio data, and data amount information indicating data amount of the audio data controlled by said step (b).  
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11. (Original) The communication method according to claim 10, further comprising the step (d) of inputting the audio data and the media data other than the audio data before executing said step (a).

12. ~~(canceled)~~

13. (Original) The communication method according to claim 10, wherein said step (b) thins out the audio data to control its data amount.

14. (Original) The communication method according to claim 10, wherein the media data other than the audio includes MIDI data.

15-18. (canceled)

19. (Previously presented) A recording medium storing a program which causes a computer to execute the steps of:

(a) estimating transfer rate of media data other than digital audio data before transmission in accordance with a communication rate of a communication network;

(b) controlling data amount of the digital audio data to be transmitted in accordance with the estimated transfer rate; and

(c) transmitting the audio data whose data amount is controlled by said step (b), the media data other than the audio data, and data amount information indicating data amount of the audio data controlled by said step (b).

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20. (Original) The recording medium storing the program according to claim 19, wherein the program further causes the computer to execute the step (d) inputting the audio data and the media data other than the audio data before executing said step (a).

21. (Original) The recording medium storing the program according to claim 19, wherein said step (c) transmits data amount information indicating whether the amount of the data is controlled by said step (b), together with the audio data.

22. (Original) The recording medium storing the program according to claim 19, wherein said step (b) thins out the audio data to control its data amount.

23. (Original) The recording medium storing the program according to claim 19, wherein the media data other than the audio data includes MIDI data.

~~24-27. (canceled)~~

B1  
28. (Previously presented) A communication device comprising:  
transfer rate estimation means for estimating transfer rate of media data other than digital audio data before transmission in accordance with a communication rate of a communication network;

data amount controlling means for controlling data amount of the digital audio data to be transmitted in accordance with the transfer rate estimated by said transfer rate estimator; and

transmission means for transmitting the audio data whose data amount is controlled by said data amount controlling means, the media data other than the audio data, and data amount information indicating data amount of the audio data controlled by said data amount controlling means.